

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 15657 of Marsel Elliott, Inc., pursuant to 11 DCMR 3107.2, for a variance from the 900 square feet of land area per apartment requirement (Subsection 401.3) to increase the number of units from 13 to 15 in an existing apartment building in an R-4 District at premises 1260 C Street, S.E. (Square 1088, Lot 803).

HEARING DATE: May 20, 1992
DECISION DATE: July 1, 1992

ORDER

SUMMARY OF EVIDENCE OF RECORD:

1. The property which is the subject of this application is located at 1620 C Street, S.E. The property is zoned R-4.

2. The R-4 District permits matter of right development of residential uses including detached, semi-detached and row single-family dwellings and flats with a minimum lot area of 1,800 square feet, a minimum lot width of 18 feet, a maximum lot occupancy of 60 percent, and a maximum height limit of three stories/40 feet. The R-4 District requires a minimum lot area of 900 square feet per apartment unit.

3. The subject lot is rectangular-shaped and has a width of 59.54 feet and a depth of 106.50 feet, and has a total land area of 6,341 square feet.

4. The subject lot is improved with a three-story plus basement apartment building that was constructed in 1948. The apartment building contains approximately 8,172 square feet of living space which is subdivided into six, one-bedroom and seven, two-bedroom apartment units.

5. Inasmuch as the apartment building predates the current zoning requirements of the R-4 District, the structure and the use of the structure have been grandfathered.

6. Notwithstanding its grandfathered designation, the subject property and its attendant use constitute a nonconforming use within the R-4 District. The property is nonconforming because the apartment building does not conform to the minimum lot area of 900 square feet per apartment unit.

7. The subject property is located in the Lincoln Park neighborhood of Ward 6. Lincoln Park is primarily developed with single-family rowhouses. However, small apartment buildings are interspersed throughout the neighborhood.

8. The applicant proposes to add two apartment units to the building. The proposed units are two-bedroom units. They would be located in the basement.

9. The purpose of the proposed addition is to create two additional units of adequate and affordable housing. The rent for the units would be between \$259.00 and \$417.00 per month, per unit. One apartment, however, would house the property manager.

10. The proposed addition which increases the number of apartment units from 13 to 15, is precluded under Subsection 401.3 of the Zoning Regulations because the resultant land area per square feet, per apartment unit would be 422 square feet, which is 478 square feet less than the minimum per square feet of lot area required under the Zoning Regulations.

11. With regards to the uniqueness of the subject property, the applicant did not present any evidence that the subject property is unique.

12. With regards to the deprivation of reasonable use of the property, if the requested variance is denied, the applicant contends that such a denial will deprive him of the reasonable use of 1,367 square feet of property.

13. The Office of Planning (OP), by memorandum dated May 13, 1992, recommended denial of the application.

The OP reasons that the R-4 District is not an apartment house district; the proposed additional units will not conform to the minimum lot area requirements; the subject site is not unique; there is no practical difficulty associated with the site; and the proposed additional units would increase the population density of the site.

Thus, OP concludes that the proposed project is detrimental to the intent, purpose and integrity of the zone plan.

14. Advisory Neighborhood Commission (ANC) 6B, on May 11, 1992 and June 23, 1992, submitted letters in which the ANC set forth its opposition to the application.

ANC-6B opposes the application because, inter alia, granting such a variance would cause irreparable harm to the intent, purpose and integrity of the Zoning Regulations.

15. There was no opposition or support of the proposed project by nearby residents.

FINDINGS OF FACT:

Based on the evidence of record, the Board finds as follows:

1. The subject apartment building was constructed before the enactment of the Zoning Regulations in 1958.
2. The applicant seeks to construct two, two-bedroom apartment units in the basement of an apartment building that is located in an R-4 District.
3. The applicant proposes to enlarge a nonconforming structure.
4. At present, the apartment building contains 13 apartment units. The proposed construction of two, two-bedroom apartment units would result in 15 apartment units. Under Subsection 401.3 of the Zoning Regulations, a minimum of 900 square feet of lot area is required per apartment unit in the R-4 District. The subject site contains 6,341 square feet of lot area, which should result in approximately 422 square feet of lot area per apartment unit.
5. The subject site is not unique to the extent that there are practical difficulties for the owner to develop the property in accordance with the Zoning Regulations.

CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing findings and the evidence of record, the Board concludes that the applicant is seeking area variances to allow the construction of two, two-bedroom units in an existing nonconforming apartment building in an R-4 District. Granting such variances requires a showing through substantial evidence of a practical difficulty upon the owner arising out of some unique or exceptional condition of the property such as exceptional narrowness, shallowness, shape or topographical conditions. Further, the Board must find that the granting of the application will not be of substantial detriment to the public good, and will not substantially impair the intent, purpose and integrity of the zone plan. The Board concludes that the applicant has not met this burden of proof. The Board further concludes that the location of the property does not make the property unique.

The Board further concludes that there are other properties nearby that are similar to the subject property in terms of size, shape, width, and depth.

The Board notes that the current Zoning Regulations do not allow apartment buildings in the R-4 District which do not have a minimum lot area of 900 square feet per apartment unit. Since any proposed construction should comply with existing regulations, it is the intent of the Zoning Regulations to have nonconforming aspects of property diminish over time. To allow the proposed construction would enlarge, rather than eliminate, a nonconformity. It is the opinion of the Board that a denial of a variance would not deprive the owner of the reasonable use of his property, on the other hand, the granting of a variance for the subject property to construct two, two-bedroom apartment units in a nonconforming apartment building in an R-4 District would substantially impair the intent, purpose, and integrity of the zone plan.

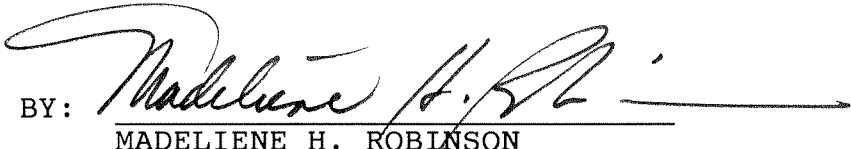
The Board concludes that ANC 6B presented issues and concerns to which "great weight" could be accorded.

In light of the foregoing, the Board **ORDERS** that the application is hereby **DENIED**.

VOTE: 4-0 (Carrie L. Thornhill, Paula L. Jewell, Angel F. Clarens and William L. Ensign to deny; Sheri M. Pruitt not present, not voting).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


MADELIENE H. ROBINSON
Director

FINAL DATE OF ORDER: _____

OCT 22 1993

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

ord15657/tm/LJP

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

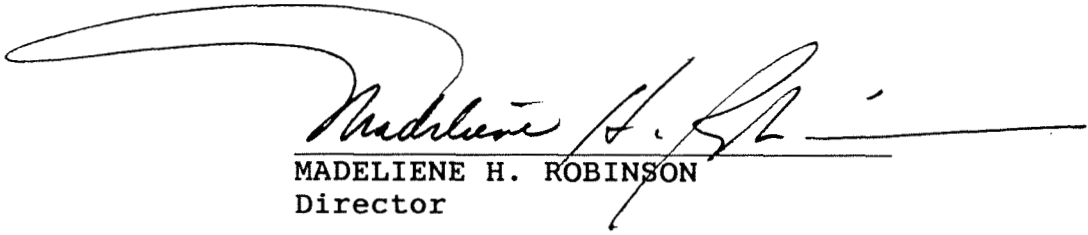


BZA APPLICATION NO. 15657

As Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on OCT 22 1993 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

Marcos R. Elliott
Marsel Elliott, Inc.
2806 Greenspire Terrace
Adelphi, Maryland 20783

Jamie Platt, Chairperson
Advisory Neighborhood Commission 6-B
921 Pennsylvania Avenue, S.E., #108
Washington, D.C. 20003


MADELIENE H. ROBINSON
Director

DATE: OCT 22 1993.